

SUBJECT: Court Imposed Change in the Cut-Off Date for  
FOIA Searches

TO: All Rural Development State Directors

ATTN: Administrative Program Directors and  
Freedom of Information Act Coordinators

PURPOSE/INTENDED OUTCOME:

On January 25, 2002, the United States Court of Appeals for the District of Columbia issued an opinion in the case of *Public Citizen v. Department of State, et al*, Civil Action No. 00-5387, 276 F.3d 364 (D.C. Cir. 2002), which would effectively require all agencies handling Freedom of Information Act (FOIA) requests, including the United States Department of Agriculture, to institute a new cut-off date when searching for responsive records. Under the *Public Citizen* opinion, agencies must set the cut-off date for responsive records as the date on which the search begins (**date-of-search cut-off date**).

For the purposes of FOIA, the cut-off date refers to the application of a policy in which the agency will not search for responsive records created after a certain date. Presently, some agencies routinely set the cut-off date as the date of the FOIA request (date-of-request cut-off date); whereas, other agencies set the cut-off date as the date the FOIA request was received by the agency (date-of-receipt cut-off date).

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

EXPIRATION DATE:  
April 30, 2003

FILING INSTRUCTIONS:  
Preceding RD Instruction 2018-F

IMPLEMENTATION RESPONSIBILITIES:

For all future FOIA requests that you receive, please keep a **record** of the **date you begin the search for the documents**.

Please direct any questions regarding this AN to  
Dorothy Hinden on (202) 692-0031.

*(Signed by Sherie Hinton Henry)*

SHERIE HINTON HENRY  
Deputy Administrator  
for Operations and Management